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SUBJECT: JORDAN'S IPR CHALLENGES AND SOLUTIONS: PART IV -
ENFORCEMENT

REF: A. AMMAN 1019

- [1](#)B. LAWLESS-ROSENSTOCK-GROVES (USTR)-WEIGLER (COMME RCE)-
EMAIL 2/1/06
- [1](#)C. 05 AMMAN 9748
- [1](#)D. 05 AMMAN 9708
- [1](#)E. 05 AMMAN 8330

Classified By: AMBASSADOR DAVID HALE FOR REASONS 1.4 (B, D)

THIS IS THE FOURTH AND FINAL INSTALLMENT IN A SERIES OF
CABLES ON INTELLECTUAL PROPERTY RIGHTS IN JORDAN.

POST WILL TRANSMIT BY SEPTTEL ITS RESPONSE TO THE
DEPARTMENT'S REQUEST (STATE 14937) FOR POST INPUT IN THE
2006 SPECIAL 301 REVIEW.

[1](#)1. (C) SUMMARY: Despite good intentions on the part of the Government of Jordan (GoJ) and support from the USAID program, enforcement of intellectual property rights is hampered on several fronts, notably by the overlapping jurisdiction of key government agencies, the lack of clear IPR mission definition in the GoJ interagency, and a gap-riddled regulatory structure (Ref,s B, C, D, E). GoJ enforcement performance falls into three general categories: good enforcement on software through the dedicated efforts of a solid private-public team (Ref D); decent enforcement on copyrights by mostly unguided, untrained, and uninspired officials; and no enforcement in some cases of pharmaceutical IPR that cross new frontiers for a GoJ now seeing a critical mass of such test cases (Refs A, C). Despite these challenges, all of the IPR stake-holders appear to grasp inter-agency gaps and are now developing a shared vision of the deficiencies in IPR enforcement. Moreover, a recent study by USAID on IPR enforcement in Jordan (Ref B) - and the compatibility of these efforts with international agreements (including the FTA) - attracted close cooperation from all sectors. The Ministry of Industry and Trade is leading an effort to act on the study's recommendations in rapid fashion. Similarly, a committee in the National Library will review actions on copyright enforcement. Private sector parties are committed to doing their part on enforcement as well, although some express skepticism that there can be change without the GoJ devoting more resources to IPR enforcement. END SUMMARY.

Enforcement Challenges - Inter-Agency Gaps

[1](#)2. (SBU) The USAID report, conducted by the Achievement of Market-Friendly Initiatives and Results (AMIR) program (Ref

B), examined IPR enforcement and the compatibility of Jordan's IPR legal-regulatory framework with WTO, FTA and other international commitments. Among key findings on IPR enforcement in Jordan, the study noted the:

-- absence of a unified policy and framework which affects the level and quality of enforcement;

-- absence of copyright regulations and instructions as a major loophole affecting efficient implementation of the Copyright Law;

-- occurrence of IP violations due to the lack of enforcement, rather than the need for more laws;

-- lack of IP awareness and professional training among enforcement officers and in the judiciary;

-- reluctance among the judiciary to impose significant fines or penalties, which fails to remove the monetary incentive for IPR violators; and,

-- lack of resources, infrastructure and technical capacity to properly enforce IPR protections.

13. (SBU) The GoJ accomplished the first-tier goal of putting in place numerous FTA-compliant laws (Ref B) with the support of the USAID AMIR program. In the Ministry of Industry and Trade (MOIT), the growing dedication to IPR commitments is chiefly the result of multiple AMIR programs to strengthen capacity on patent and trademark regulation (under the MOIT purview) and enhance officials' trade-related capacity. AMIR has held workshops, seminars, and supported officials' study tours to USPTO programs in the U.S. Since December 2004 when the FTA enforcement provisions came into full force, AMIR has also attempted to strengthen aspects of enforcement among

Customs, Judicial, and National Library officials, and launched a major public awareness campaign. NOTE: Neither USAID nor AMIR, however, can carve out budgets, pay salaries, or upgrade the pay of enforcement officials, and the inter-agency nature of IPR enforcement in Jordan does not provide incentives to increase IPR budgets. END NOTE. The MOIT, which is the AMIR program's point of reference, has no authority to implement or enforce TRIPS and FTA commitments in other ministries. MOIT can inform others of the need for - but not demand - regulations related to the Copyright Law (Ministry of Culture's responsibility) or for transparent and understandable regulations in the Jordan Food and Drug Administration (in the Ministry of Health).

14. (SBU) Despite these considerable inter-agency challenges, the occurrence of software piracy has gone down in Jordan, due mainly to the aggressive posture of the Business Software Alliance (BSA) and its local representative, who has built up a rapport with local enforcement officials (Ref D). COMMENT: That most software products are relatively high-end with a limited market makes the success of this approach possible. Many forms of optical media have almost the quality of a commodity; it is far more difficult to regulate their flows or enforce optical media IPR protections. END COMMENT.

New Developments in Enforcement -----

15. (SBU) Over the last two months, the National Library (NL) has been working more closely with Amman Municipality authorities on DVD pirate hawkers out on the streets who have no fixed address. In the past, National Library enforcers were unable to deal with these cases, based in part on the NL's conservative and narrow interpretation of its authorities under the Copyright Law. The National Library is also in the early stages of exploring tighter cooperation with the police.

16. (SBU) In spite of the disillusioning legal-regulatory climate, the GoJ's anti-piracy forces troop on. Final tallies for the year 2005 show the National Library sent 296

cases to the courts. In December, a major raid on a house in Irbid by plain-clothes police netted over 160,000 pirated optical disks. This was one of the few IPR raids conducted exclusively by the Ministry of Interior (MOI); unlike other specialized agencies such as the National Library, the MOI has the power to enforce all laws, but rarely investigates IPR cases. The National Library followed in December with two major raids on stores in Amman's City Center, according to the President of the Jordan Intellectual Property Association (JIPA), Murad Bushnaq. In mid-February, the NL raided a West Amman music pirate, confiscating more than 8,000 audiotapes.

Judges: The "Big Loophole"...

17. (SBU) Like National Library Director General Mamoun Talhouni, JIPA's Bushnaq believes the main problem with IPR enforcement in Jordan is the lenient approach by judges and their permissive fines of 20-50 Jordanian Dinars (USD \$28-70). Even when defendants plead guilty, the judges rule them "not liable," which then allows them to avoid the minimum copyright piracy fine of 1000 JD (USD \$1,400). "The big loophole is the judges," said Bushnaq, who is the Warner Brothers licensee in Jordan. "The enforcement agencies keep sending pirates to the courts and they keep getting off. Then they are back on the streets."

...But Ready to be Trained

18. (SBU) Post sent two GoJ judges to a USPTO-sponsored conference in Dubai in January. One judge who had an M.A. degree in IP law explained to Econoff that there was a reluctance among Jordanian judges to impose fines, partly because of a lack of IP awareness, but also out a cultural sensitivity to being too harsh. The same judge showed us evidence presented in a pirating case by the National Library: attached to a box full of DVD's was a single document with a single line reading "various DVD's containing pirated material." That was well below Jordan's evidentiary standard, said the judge, who readily admitted more cross-training was required for all agencies combating IPR infringement.

19. (C) On another front, pharmaceutical IPR in Jordan is a challenge for a young and relatively inexperienced Jordan Food and Drug Administration (Refs A, C) that is nonetheless under pressure by a very well-developed generic pharmaceutical industry. Post will be following up on pharmaceutical IPR in Jordan in the days and weeks ahead.

A New Cohesion

10. (C) For all of Jordan's inter-agency difficulties on IPR enforcement, the USAID study (Ref B) has united Jordan's IPR officialdom behind a single desire to improve and clean up the IPR enforcement climate to the extent possible given current resources. The Ministry of Industry and Trade has promised to convene again its committee on IPR to review the USAID study, develop an over-arching strategy, and mark out a clear path forward. The National Library Director General told DCM February 13 that he would be convening a new committee of copyright enforcement agencies (including the GID anti-fraud unit) to review possible new regulations and instructions related to the Copyright Law, with the aim of improving enforcement.

11. (C) COMMENT: IPR enforcement in Jordan undoubtedly has a long way to go. FTA commitments have not yet been fully met, mainly in areas outside the direct responsibility of the Ministry of Industry and Trade. That said, the right agencies are saying the right things, and are sincerely trying to improve Jordan's compliance with its international obligations to uphold intellectual property rights through stronger enforcement mechanisms. In that vein, the USAID AMIR program is already advancing a draft IPR action plan

which the concerned GoJ agencies are just beginning to review.
HALE